



Graves Garrett LLC

Edward D. Greim
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

June 28, 2023

Via CM/ECF Filing Only

The Honorable James O. Browning
United States District Judge
United States District Court for the
District of New Mexico
Pete V. Domenici United States Courthouse
333 Lomas Blvd NW, Suite 660
Albuquerque, New Mexico 87102

Re: Status in Voter Reference Foundation, LLC vs. Torrez, et. al
Case No. 1:22-cv-0222-JB-KK

Dear Judge Browning:

At the June 14, 2023, hearing on the Parties' cross-motions for summary judgment, the Court asked for input from the Parties on two issues.

First, the Court asked whether, given the filing of the cross-motions, the Parties expect to have a bench trial in this matter on any issues which the Court does not resolve on summary judgment, or whether the Parties would consent to allowing the Court to make findings of fact based on the summary judgment record. After conferring with Defendants' counsel, Defendants did not consent to allowing the Court to make factual findings based on the paper record and indicated their intent to "present evidence in the ordinary course." While the Parties anticipate that they will be able to stipulate to basic uncontested matters, a bench trial will be necessary to resolve any claims not resolved in the Court's decision on the summary judgment motions.

The bench trial in this matter is set to begin on September 11, 2023. At the June hearing, the Parties agreed that this trial setting should be maintained and not continued.



Graves Garrett LLC

Second, the Court ordered Defendants to file a notice or letter indicating what records would be made available by the Secretary under the Defendants' interpretation of the NVRA as argued in the briefing and at the June hearing. The following day, Plaintiff served a public records request on the Secretary pertaining to this same topic.

As of the date of this letter, no such filing has been made¹ and Plaintiff has received no substantive response to its public records request. Defendants' legal position on the scope of the Public Inspection Provision remains unknown. As the Court indicated that the substance of Defendants' response would have some bearing on its decision on the cross-motions for summary judgment currently before it and with trial set to start in just over ten weeks, Plaintiff requests that the Court now set a reasonable deadline for Defendants to make their supplemental filing, and for Plaintiff to file a brief response.

Respectfully,

Edward D. Greim
Counsel for Plaintiff

Cc: Jeff Herrera, Assistant Attorney General (by CM/ECF)
Mark Allen, Assistant Attorney General (by CM/ECF)

¹ Ms. Schremmer did email the Court on June 21, 2023, indicating that the Secretary "is working diligently to provide the Court with the supplemental materials requested at last Wednesday's hearing, regarding the types of records that the Secretary maintains in compliance with the NVRA." No timeline was provided on when that response would be made, and Ms. Schremmer has since withdrawn from this matter. See Doc. 130.